

SENATE BILL NO. 455

INTRODUCED BY G. HINKLE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A TAXPAYER TO DEFER PAYMENT OF PROPERTY TAXES ON THE TAXPAYER'S RESIDENCE; PROVIDING THAT INTEREST AND PENALTY DO NOT ACCRUE WHILE THE PROPERTY TAXES ARE DEFERRED; PROVIDING THAT A DEFERMENT IS TERMINATED UPON CERTAIN TRANSFERS OF THE PROPERTY; PROVIDING THAT THE UNPAID TAXES ARE A LIEN ON THE PROPERTY BUT THE PROPERTY MAY NOT BE SUBJECT TO TAX PROCEEDINGS UNTIL THE DEFERMENT IS TERMINATED; ALLOWING REPAYMENT OF DEFERRED PROPERTY TAXES; PROVIDING PENALTIES FOR FRAUDULENT DEFERMENT; AMENDING SECTION 15-16-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Residential property tax payment deferral -- lien. (1) A taxpayer may defer payment of property taxes on qualified residential property as provided in this section.

(2) (a) Property taxes may be deferred without penalty and interest upon filing of a notice to defer taxes by a taxpayer with the county treasurer of the county in which the residential property is located. The county treasurer shall notify the department of the deferral.

(b) Property taxes are deferred without penalty or accrued interest that are otherwise required by 15-16-101. Property taxes that have been deferred pursuant to this section are not delinquent property taxes for the purposes of a tax lien sale under Title 15, chapter 17.

(3) Property upon which property taxes have been deferred under this section are subject to the lien established in 15-16-403 for the full amount of the deferred property taxes. While the property taxes are deferred, the lien is unenforceable against the taxpayer but the state retains its lien priority against all other claims on the property. The property owner may not be dispossessed nor may the property be seized or otherwise taken by the state for nonpayment of property taxes by suit, warrant for distraint, or any other process while the deferral remains in effect.

(4) (a) Except as provided in subsection (4)(b), a deferral terminates if the property is no longer qualified residential property or if the ownership of the property is transferred in any manner, including by sale, gift, or

operation of law. A transfer by operation of law includes a transfer by court order or the termination of joint tenancy by death. The taxpayer must report the transfer to the county treasurer. The county treasurer must report the termination of the deferral to the department.

(b) A deferral is not terminated if the transfer is to a surviving spouse or is between spouses as the result of a dissolution of marriage.

(c) Upon transfer of the property, all deferred property taxes are due and owing and 30 days after the date of the transfer are considered delinquent taxes. The taxes due are subject to the payment of interest from the date of transfer and any penalty for nonpayment.

(5) Deferred property taxes may be paid at any time the deferral remains in effect by the taxpayer owning the property. Payments must be applied to the taxes that have been deferred the longest. A payment is not required to be a full year or half year installment.

(6) (a) If the notice to defer taxes filed under subsection (2) was fraudulent, the taxpayer is liable for the payment of penalty and interest on the unpaid property taxes from the time that the notice to defer was filed, and property is subject to a tax lien sale and all other remedies for the nonpayment of taxes.

(b) If a taxpayer fraudulently failed to report the termination of deferral required under subsection (4)(a), the taxpayer is liable for the payment of penalty and interest on the deferred and unpaid property taxes from the time that the deferral terminated.

(7) "Qualified residential property" means any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of the taxpayer.

Section 2. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended, deferred, or canceled under the provisions of 10-1-606, [section 11], or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30

1 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest
2 at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent
3 taxes as a penalty.

4 (3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw
5 interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the
6 delinquent taxes as a penalty.

7 (4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without
8 penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

9 (b) If taxes on property qualifying under the low-income property tax assistance provisions of
10 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes
11 may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the
12 penalty must be paid and interest accrues from the date on which the taxes were due.

13 (5) (a) (i) A taxpayer may pay current year taxes without paying delinquent taxes. ~~The~~ Except as
14 provided in subsection (5)(a)(ii), the county treasurer shall accept a partial payment equal to the delinquent taxes,
15 including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have
16 been paid. ~~Payment~~ Except as provided in subsection (5)(a)(ii), payment of taxes for delinquent taxes must be
17 applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not
18 a redemption of the property tax lien for any delinquent tax year.

19 (ii) A taxpayer may pay property taxes that have been deferred under [section 1] by paying all or a part
20 of the taxes due. The payments must be applied to the taxes that have been deferred the longest.

21 (b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment
22 otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

23 (6) The penalty and interest on delinquent assessment payments for specific parcels of land may be
24 waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

25 (7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
26 tax is not owed and a new tax bill does not need to be prepared.

27 (8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided
28 in 76-3-207."

29
30 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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